

S. B.

700

By

*Sherman*  
Sherman

A BILL

TO BE ENTITLED

AN ACT amending Section 13 of Chapter 264, Acts of the 59th Legislature, Regular Session, 1965, as last amended by Chapter 376, Acts of the 61st Legislature, Regular Session, 1969 (Codified as Art. 762le of Vernon's Texas Civil Statutes); changing the penalties for violation of Article 762le, Vernon's Civil Statutes, from misdemeanors to civil penalties of not less than \$50 nor more than \$1,000 per day for each and every day and each and every act; providing for injunctions; defining "local government" and providing for suits by the State Water Well Drillers Board and by such local governments; providing for venue and trial of such civil penalty suits and for the disposition of civil penalties; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Section 13 of Chapter 264, Acts of the Fifty-ninth Legislature, Regular Session, 1965, as last amended by Chapter 376, Acts of the Sixty-first Legislature, Regular Session, 1969 (codified as Art. 762le of Vernon's Texas Civil Statutes) is amended to read as follows:

Sec. 13. Penalties and enforcement. (a) Any person who violates any provision of this Act or any rule, regulation, or other order of the Board, or of the Commission passed pursuant to this Act, is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each and every day of violation and for each and every act of violation, as the Court may deem proper, to be recovered in the manner provided in this section.

(b) Whenever it appears that a person has violated or is violating, or is threatening to violate, any provision of this Act, or of any rule, regulation, permit, or other order of the Board, or of the Commission when promulgated pursuant to this Act, then the Board, or the Director of the Groundwater Division of the Commission when authorized by the Board, may cause a civil

suit to be instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each and every act of violation and for each and every day of violation, as the Court may deem proper, or for both injunctive relief and civil penalty. Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or any rule, regulation, or other order of the Board or Commission issued pursuant to this Act, the district court shall grant the injunctive relief the facts may warrant.

(c) At the request of the Board, or the Commission when authorized by the Board, the Attorney General shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both injunctive relief and penalty as authorized in subsection (b) of this section.

(d) Whenever it appears that a violation or threat of violation of any provision of this Act or of any rule, regulation, or other order of the board or of the commission promulgated under this Act has occurred or is occurring within the jurisdiction of a local government, exclusive of its extraterritorial jurisdiction, the local government, in the same manner as the Board, may cause a suit to be instituted in district court through its own attorney for injunctive relief or civil penalties, or both, as authorized in subsection (b) of this section against the person who committed, or is committing or threatening to commit the violation. This power may not be exercised by a local government unless its governing body adopts a resolution authorizing the exercise of the power. In a suit brought by a local government under this subsection, the Board is a necessary and indispensable party. All civil penalties recovered in suits instituted by a local government or governments under this Act shall be equally

divided between the State of Texas on the one hand and local government or governments first instituting the suit on the other, with 50 percent of the recovery to be paid to the general revenue fund of the State of Texas and the other 50 percent equally to the local government or governments first instituting the suit.

(e) A suit for injunctive relief or for recovery of a civil penalty, or for both injunctive relief and penalty, may be brought in District Court in Travis County, Texas, or in the county of the residence of the defendant or, if there be more than one defendant, in the county of the residence of any of them, or in the county in which the violation is alleged to have occurred, or threat of violation occurs. The recovery of payment of any such penalty shall not authorize the violation of any provision of this Act, or of any of the rules, regulations or orders promulgated thereunder.

(f) A suit brought under this Act shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court.

(g) Local government means a county; an incorporated city or town; a river authority or water district acting under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution; or a political subdivision acting under Article 4477-7, Vernon's Civil Statutes of Texas.

Sec. 2. The fact that the Texas Water Well Drillers Board needs a civil penalty provision in its law and that there is a need for a local government enforcement program as to this agency create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the Rule is hereby suspended.

Austin, Texas

March 29, 19 71

Hon. Ben Barnes  
President of the Senate

Sir:

We, your Committee on Water and Conservation,  
to which was referred S. B. No. 700, have had the same  
under consideration, and I am instructed to report it back to  
the Senate with the recommendation that it do \_\_\_\_\_  
pass \_\_\_\_\_ and be \_\_\_\_\_ printed.

  
Chairman Creighton

BILL ANALYSIS

BACKGROUND INFORMATION:

PURPOSE OF THE BILL:

Change the penalties for violation of Article 7621e, V.T.C.S., (Water Well Drillers Act) from misdemeanors to civil penalties. Provide for injunctions; define "local government" and provide for suits by the State Water Well Drillers Board and by such local governments; provide for venue and trial of such civil penalty suits and for the disposition of civil penalties.

SECTION BY SECTION SUMMARY:

Section 1: Amended Section 13, Article 7621(e), V.T.C.S., is amended as follows:

Present Law

Section 13(a) involves misdemeanor penalties for "any person not holding a certificate of registration as a registered water well driller." Misdemeanor conviction may include a fine of not less than \$25 nor more than \$200.

(b) Describes misdemeanor penalty for registered water well driller who fails to mark his equipment.

(c) Describes misdemeanor penalty for violating Section 15 of this Act which refers to plugging well.

Suggested Amended Law

Section 13(a) involves civil penalties of not less than \$50 nor more than \$1,000 for each and every day of violation to "any person who violates any provision of this Act:"

(b) Allows Director of the Groundwater Division of the Comm. to institute a civil suit in district court for injunctive relief to restrain a person from continuing the violation or threat of violation, or for recovery of a civil penalty for each and every violation of this Act.

(c) Allows Attorney General to institute and conduct a suit in the name of the State of Texas for both injunctive relief and penalty as described in Subsection (b).

By: Sherman

S. B. No. 700

A BILL TO BE ENTITLED

AN ACT

*Capitol*  
*by*  
amending Section 13 of Chapter 264, Acts of the 59th Legislature, Regular Session, 1965, as last amended by Chapter 376, Acts of the 61st Legislature, Regular Session, 1969 (codified as Article 7621e of Vernon's Texas Civil Statutes); changing the penalties for violation of Article 7621e, Vernon's Texas Civil Statutes, from misdemeanors to civil penalties of not ~~less than \$50 nor more than~~ <sup>to exceed</sup> \$1,000 per day for each and every day and each and every act; providing for injunctions; defining "local government" and providing for suits by the State Water Well Drillers Board and by such local governments; providing for venue and trial of such civil penalty suits and for the disposition of civil penalties; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Section 13 of Chapter 264, Acts of the 59th Legislature, Regular Session, 1965, as last amended by Chapter 376, Acts of the 61st Legislature, Regular Session, 1969 (codified as Article 7621e of Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 13. Penalties and enforcement. (a) Any person who violates any provision of this Act or any rule, regulation, or other order of the Board, or of the Commission passed pursuant to this Act, is subject to a civil penalty of not less than \$50 nor more than \$1,000 for each and every day of violation and for each and every act of violation, as the court may deem proper, to be recovered in the manner provided in this section.

"(b) Whenever it appears that a person has violated or is violating, or is threatening to violate, any provision of this Act, or of any rule, regulation, permit, or other order of the Board, or of the Commission when promulgated pursuant to this Act, then the Board, or the director of the Groundwater Division of the Commission when authorized by the Board, may cause a civil suit to be instituted in a district court for injunctive relief to restrain the person from continuing the violation or threat of violation, or for the assessment and recovery of a civil penalty of not less than \$50 nor more than \$1,000 for each and every act of violation and for each and every day of violation, as the court may deem proper, or for both injunctive relief and civil penalty. Upon application for injunctive relief and a finding that a person is violating or threatening to violate any provision of this Act or any rule, regulation, or other order of the Board or Commission issued pursuant to this Act, the district court shall grant the injunctive relief the facts may warrant.

"(c) At the request of the Board, or the Commission when authorized by the Board, the Attorney General shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both injunctive relief and penalty as authorized in Subsection (b) of this section.

"(d) Whenever it appears that a violation or threat of violation of any provision of this Act or of any rule, regulation, or other order of the Board or of the Commission promulgated under this Act has occurred or is occurring within the jurisdiction of a local government, exclusive of its extraterritorial jurisdiction, the local government, in the same manner as the Board, may cause a

suit to be instituted in district court through its own attorney for injunctive relief or civil penalties, or both, as authorized in Subsection (b) of this section against the person who committed, or is committing or threatening to commit the violation. This power may not be exercised by a local government unless its governing body adopts a resolution authorizing the exercise of the power. In a suit brought by a local government under this subsection, the Board is a necessary and indispensable party. All civil penalties recovered in suits instituted by a local government or governments under this Act shall be equally divided between the State of Texas on the one hand and local government or governments first instituting the suit on the other, with 50 percent of the recovery to be paid to the general revenue fund of the State of Texas and the other 50 percent equally to the local government or governments first instituting the suit.

"(e) A suit for injunctive relief or for recovery of a civil penalty, or for both injunctive relief and penalty, may be brought in District Court in Travis County, Texas, or in the county of the residence of the defendant or, if there be more than one defendant, in the county of the residence of any of them, or in the county in which the violation is alleged to have occurred, or threat of violation occurs. The recovery of payment of any such penalty shall not authorize the violation of any provision of this Act, or of any of the rules, regulations or orders promulgated thereunder.

"(f) A suit brought under this Act shall be given precedence over all other cases of a different nature on the docket of the trial or appellate court.



"(g) Local government means a county, an incorporated city or town, a river authority or water district acting under Article III, Section 52, or Article XVI, Section 59, of the Texas Constitution, or a political subdivision acting under Article 4477-7, Vernon's Texas Civil Statutes."

Sec. 2. The fact that the Texas Water Well Drillers Board needs a civil penalty provision in its law and that there is a need for a local government enforcement program as to this agency create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the Rule is hereby suspended.

FORM C

(For a favorable report on a bill where a "committee substitute" was recommended by the committee.)

COMMITTEE REPORT

Date May 5, 1971

HON. G. F. (GUS) MUTSCHER

Speaker of the House of Representatives.

Sir:

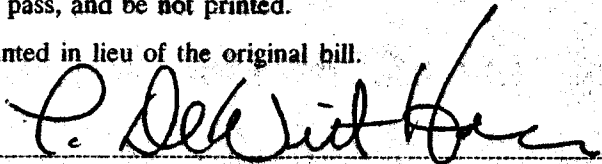
We, your Committee on Judiciary, to whom was referred S.B. No. 700, have had the same under consideration and beg to report back with recommendation that it do pass, and be not printed.

Committee Substitute was recommended and is to be printed in lieu of the original bill.

The Bill was reported from Committee by the following vote:

Unanimous voice vote

Yeas \_\_\_\_\_ Nays \_\_\_\_\_



Chairman.

(A "committee substitute" in the case of a bill is in the form of two suggested amendments, a new body and a new caption. Under the Rules a committee may authorize the printing of the "committee substitute" in lieu of the original bill. If the original caption is adequate, the "committee substitute" should be only a new body; and in such case the original caption should be printed along with the suggested new body.)

1 By: Sherman

S. B. No. 700

2 (In the Senate. --March 11, 1971, Filed with the Secretary of the Senate;  
3 March 15, 1971, read, referred to Committee on Water and Conservation;  
4 March 29, 1971, reported favorably; April 22, 1971, read second time  
5 and ordered engrossed; April 22, 1971, Senate and Constitutional 3-Day  
6 Rules suspended by vote of 31 yeas, 0 nays to place bill on third reading  
7 and final passage; April 22, 1971, read third time and passed by 31 yeas,  
8 0 nays.)

9 CHARLES SCHNABEL  
10 Secretary of the Senate

11 April 22, 1971, Engrossed.

12 BEA LEWIS  
13 Engrossing Clerk

14 April 22, 1971, Sent to House.

15 April 22, 1971, Received from the Senate.

16 DOROTHY HALLMAN

17 Chief Clerk, House of Representatives

18 (In the House. --April 26, 1971, Read first time and referred to  
19 Committee on Judiciary: May 12, 1971, reported favorably as amended by  
20 a unanimous voice vote, sent to Printer.)

21 A BILL

22 TO BE ENTITLED

23 AN ACT amending Section 13 of Chapter 264, Acts of the 59th  
24 Legislature, Regular Session, 1965, as last amended  
25 by Chapter 376, Acts of the 61st Legislature, Regular  
26 Session, 1969 (codified as Article 7621e of Vernon's  
27 Texas Civil Statutes); changing the penalties for violation  
28 of Article 7621e, Vernon's Texas Civil Statutes, from  
29 misdemeanors to civil penalties of not less than \$50 nor  
30 more than \$1,000 per day for each and every day and  
31 each and every act; providing for injunctions; defining  
32 "local government" and providing for suits by the State  
33 Water Well Drillers Board and by such local govern-  
34 ments; providing for venue and trial of such civil  
35 penalty suits and for the disposition of civil penalties;  
36 and declaring an emergency.

37 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

38 Section 1. That Section 13 of Chapter 264, Acts of the 59th Legislature,  
39 Regular Session, 1965, as last amended by Chapter 376, Acts of the 61st  
40 Legislature, Regular Session, 1969 (codified as Article 7621e of Vernon's  
41 Texas Civil Statutes), is amended to read as follows:

42 "Section 13. Penalties and enforcement. (a) Any person who violates  
43 any provision of this Act or any rule, regulation, or other order of the  
44 Board, or of the Commission passed pursuant to this Act, is subject to  
45 a civil penalty of not less than \$50 nor more than \$1,000 for each and  
46 every day of violation and for each and every act of violation, as the  
47 court may deem proper, to be recovered in the manner provided in  
48 this section.

49 [Penal provisions]

50 [Sec.] [Any person not holding a certificate of registration as a registered  
51 water well driller who drills, bores, cores or constructs any water well  
52 in this State for compensation shall be guilty of a misdemeanor and upon  
53 conviction shall be subject to a fine of not less than \$25.00 nor more than  
54 \$200.00 or to punishment by confinement in jail for a period of not to  
55 exceed 120 days or by both such fine and jail confinement for first  
56 conviction; and may be punished for each subsequent conviction by fine  
57 of not less than \$200.00 or more than \$1,000.00 or by confinement in jail  
58 for not less than 120 days or more than one year or both by such fine and  
59 jail confinement.]

60 "(b) Whenever it appears that a person has violated or is violating, or

1 is threatening to violate, any provision of this Act, or of any rule,  
 2 regulation, permit, or other order of the Board, or of the Commission  
 3 when promulgated pursuant to this Act, then the Board, or the director  
 4 of the Groundwater Division of the Commission when authorized by the  
 5 Board, may cause a civil suit to be instituted in a district court for  
 6 injunctive relief to restrain the person from continuing the violation or  
 7 threat of violation, or for the assessment and recovery of a civil penalty  
 8 of not less than \$50 nor more than \$1,000 for each and every act of  
 9 violation and for each and every day of violation, as the court may deem  
 10 proper, or for both injunctive relief and civil penalty. Upon application  
 11 for injunctive relief and a finding that a person is violating or threatening  
 12 to violate any provision of this Act or any rule, regulation, or other order  
 13 of the Board or Commission issued pursuant to this Act, the district court  
 14 shall grant the injunctive relief the facts may warrant.

15 [ Any person who is a registered water well driller under this Act who  
 16 fails to mark his equipment as provided herein is guilty of a misdemeanor  
 17 and may be fined not less than \$25.00 nor more than \$200.00. ]

18 "(c) At the request of the Board, or the Commission when authorized  
 19 by the Board, the Attorney General shall institute and conduct a suit in  
 20 the name of the State of Texas for injunctive relief or to recover the  
 21 civil penalty, or for both injunctive relief and penalty as authorized in  
 22 Subsection (b) of this section.

23 [ Any person who wilfully violates any of the duties imposed by Section  
 24 15 of this Act by failing to give timely notice to the landowner or person  
 25 having a well drilled that a well must be plugged, or anyone who fails to  
 26 plug such a well properly as soon as is reasonably possible, or anyone  
 27 who fails to submit the required plugging report to the Commission within  
 28 thirty (30) days is guilty of a misdemeanor and may be fined not less  
 29 than \$200.00 or more than \$500.00. ]

30 "(d) Whenever it appears that a violation or threat of violation of any  
 31 provision of this Act or of any rule, regulation, or other order of the  
 32 Board or of the Commission promulgated under this Act has occurred or  
 33 is occurring within the jurisdiction of a local government, exclusive of  
 34 its extraterritorial jurisdiction, the local government, in the same  
 35 manner as the Board, may cause a suit to be instituted in district court  
 36 through its own attorney for injunctive relief or civil penalties, or both,  
 37 as authorized in Subsection (b) of this section against the person who  
 38 committed, or is committing or threatening to commit the violation.  
 39 This power may not be exercised by a local government unless its  
 40 governing body adopts a resolution authorizing the exercise of the power.  
 41 In a suit brought by a local government under this subsection, the Board  
 42 is a necessary and indispensable party. All civil penalties recovered in  
 43 suits instituted by a local government or governments under this Act shall  
 44 be equally divided between the State of Texas on the one hand and local  
 45 government or governments first instituting the suit on the other, with  
 46 50 percent of the recovery to be paid to the general revenue fund of the  
 47 State of Texas and the other 50 percent equally to the local government or  
 48 governments first instituting the suit.

49 [ Any violator of these provisions may be arrested by any sheriff,  
 50 constable or other lawful peace officer of this State or any political sub-  
 51 division thereof. Such violations shall be tried in the county court of the  
 52 county in which such offense occurred. ]

53 "(e) A suit for injunctive relief or for recovery of a civil penalty, or  
 54 for both injunctive relief and penalty, may be brought in District Court  
 55 in Travis County, Texas, or in the county of the residence of the defendant  
 56 or, if there be more than one defendant, in the county of the residence of  
 57 any of them, or in the county in which the violation is alleged to have  
 58 occurred, or threat of violation occurs. The recovery of payment of any  
 59 such penalty shall not authorize the violation of any provision of this Act,  
 60 or of any of the rules, regulations or orders promulgated thereunder.

1 "(f) A suit brought under this Act shall be given precedence over all  
2 other cases of a different nature on the docket of the trial or appellate  
3 court.

4 "(g) Local government means a county, an incorporated city or town,  
5 a river authority or water district acting under Article III, Section 52,  
6 or Article XVI, Section 59, of the Texas Constitution, or a political  
7 subdivision acting under Article 4477-7, Vernon's Texas Civil Statutes."

8 Sec. 2. The fact that the Texas Water Well Drillers Board needs a  
9 civil penalty provision in its law and that there is a need for a local  
10 government enforcement program as to this agency create an emergency  
11 and an imperative public necessity that the Constitutional Rule requiring  
12 bills to be read on three several days in each House be suspended, and  
13 the Rule is hereby suspended.

14  
15 COMMITTEE AMENDMENT NO. 1

16 Amend S. B. 700 by striking all below the enacting clause and substituting  
17 in lieu thereof the following:

18 Section 1. That Section 13 of Chapter 264, Acts of the Fifty-ninth  
19 Legislature, Regular Session, 1965, as last amended by Chapter 376,  
20 Acts of the Sixty-first Legislature, Regular Session, 1969 (codified as  
21 Art. 7621e of Vernon's Texas Civil Statutes) is amended to read as follows:

22 Sec. 13. Any person who fails to comply with the provisions of this Act,  
23 or with any rule or regulation promulgated by the board or the commission  
24 under this Act, or with any term, condition or provision in his permit  
25 issued pursuant to this Act, shall be subject to a civil penalty in any sum  
26 not exceeding One Thousand Dollars (\$1,000.00) for each day of non-  
27 compliance and for each act of non-compliance, as the court may deem  
28 proper. The action may be brought by the board or the commission as  
29 appropriate, in any court of competent jurisdiction in the county where the  
30 offending activity is occurring or where the defendant resides. Full  
31 authority is also given the board or commission, as appropriate, to enforce  
32 by injunction, mandatory injunction or other appropriate remedy, in courts  
33 having jurisdiction in the county where the offending activity is occurring,  
34 any and all reasonable rules and regulations promulgated by it which do  
35 not conflict with any law, and all of the terms, conditions and provisions  
36 of permits issued by the board or commission pursuant to the provisions  
37 of this Act. At the request of the board or the commission, the attorney  
38 general shall institute and conduct a suit in the name of the State of Texas  
39 for injunctive relief or to recover the civil penalty, or for both the  
40 injunctive relief and civil penalty, authorized in this section. Any party  
41 to a suit may appeal from a final judgment as in other civil cases. The  
42 obtaining of a permit under the provisions of this Act by a person shall  
43 not act to relieve that person from liability under any statutory law or the  
44 Common Law.

45 [ Penal provisions

46 (a) Any person not holding a certificate of registration as a registered  
47 water well driller who drills, bores, cores or constructs any water well  
48 in this State for compensation shall be guilty of a misdemeanor and upon  
49 conviction shall be subject to a fine of not less than \$25.00 nor more  
50 than \$200.00 or to punishment by confinement in jail for a period of not  
51 to exceed 120 days or by both such fine and jail confinement for first  
52 conviction; and may be punished for each subsequent conviction by  
53 fine of not less than \$200.00 or more than \$1,000.00 or by confinement  
54 in jail for not less than 120 days or more than one year or both by such  
55 fine and jail confinement. ]

56 Sec. 2. The fact that the Texas Water Well Drillers Board needs a  
57 civil penalty provision in its law and that there is a need for an enforce-  
58 ment program as to this agency create an emergency and an imperative  
59 public necessity that the Constitutional Rule requiring bills to be read on  
60 three several days in each House be suspended, and the Rule is hereby  
61 suspended. Moore

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COMMITTEE AMENDMENT NO. 2

Amend S. B. 700 by striking all above the enacting clause and substituting in lieu thereof the following:

A BILL

TO BE ENTITLED

AN ACT amending Section 13 of Chapter 264, Acts of the 59th Legislature, Regular Session, 1965, as last amended by Chapter 376, Acts of the 61st Legislature, Regular Session, 1969, (Codified as Art. 7621e of Vernon's Texas Civil Statutes); changing the penalties for violation of Article 7621e, Vernon's Civil Statutes, from misdemeanors to civil penalties of not to exceed \$1,000 per day for each and every day and each and every act; providing for injunctions; and declaring an emergency.

Moore

COMMITTEE REPORT

COMMITTEE ROOM

Austin, Texas, May 5, 1971

Hon. G. F. (Gus) Mutscher, Speaker of the House of Representatives.

SIR: We, your Committee on Judiciary, to whom was referred S. B. No. 700, have had the same under consideration and beg to report back with recommendation that it do pass, and be not printed.

Committee Substitute was recommended and is to be printed in lieu of the original bill.

L. DeWitt Hale, Chairman

BILL ANALYSIS

BACKGROUND INFORMATION:

PURPOSE OF THE BILL:

Change the penalties for violation of Article 7621e, V. T. C. S., (Water Well Drillers Act) from misdemeanors to civil penalties. Provide for injunctions; define "local government" and provide for suits by the State Water Well Drillers Board and by such local governments; provide for venue and trial of such civil penalty suits and for the disposition of civil penalties.

SECTION BY SECTION SUMMARY:

Section 1: Amended Section 13, Article 7621(e), V. T. C. S., is amended as follows:

Present Law

Suggested Amended Law

Section 13(a) involves misdemeanor penalties for "any person not holding a certificate of registration as a registered water well driller." Misdemeanor conviction may include a fine of not less than \$25 nor more than \$200.

(b) Describes misdemeanor penalty for registered water well driller who fails to mark his equipment.

(c) Describes misdemeanor penalty for violating Section 15 of this Act which refers to plugging well.

Section 13(a) involves civil penalties of not less than \$50 nor more than \$1,000 for each and every day of violation to "any person who violates any provision of this Act."

(b) Allows Director of the Groundwater Division of the Comm. to institute a civil suit in district court for injunctive relief to restrain a person from continuing the violation or threat of violation, or for recovery of a civil penalty for each and every violation of this Act.

(c) Allows Attorney General to institute and conduct a suit in the name of the State of Texas for both injunctive relief and penalty as described in Subsection (b).

1 (d) Refers to violator's  
2 arrest and trial in county court  
3 in the county of the offense.  
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(d) Allows local govern-  
ment to institute civil suit in district  
court as authorized in Subsection (b).  
Local governing body must adopt a  
resolution authorizing the exercise  
of the power. In this suit, the Texas  
Water Drillers Board is a necessary  
and indispensable party. Civil  
penalties recovered by this suit shall  
be divided between the State and local  
government with 50 per cent of the  
recovery going to general revenue  
fund of State of Texas and 50% to the  
local govt.

(e) The above mentioned  
suits may be brought in District  
Court in Travis County, Texas or in  
county of residence of any of the  
defendants or county in which violation  
is alleged to have occurred. Payment  
of penalty shall not authorize the  
violation of any provision of this Act.

(f) Suits brought under this  
Act receive precedence over all cases.

(g) Meaning of "local  
government".

28 Section 2: Emergency Clause.  
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30 SUMMARY OF COMMITTEE ACTION:  
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32 Passed by a unanimous voice vote.  
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Amend S.B. 700 by striking all below the enacting clause and substituting in lieu thereof the following:

Section 1. That Section 13 of Chapter 264, Acts of the Fifty-ninth Legislature, Regular Session, 1965, as last amended by Chapter 376, Acts of the Sixty-first Legislature, Regular Session, 1969 (codified as Art. 7621e of Vernon's Texas Civil Statutes) is amended to read as follows:

Sec. 13. Any person who fails to comply with the provisions of this Act, or with any rule or regulation promulgated by the board or the commission under this Act, or with any term, condition or provision in his permit issued pursuant to this Act, shall be subject to a civil penalty in any sum not exceeding One Thousand Dollars (\$1,000.00) for each day of non-compliance and for each act of non-compliance, as the court may deem proper. The action may be brought by the board or the commission, as appropriate, in any court of competent jurisdiction in the county where the offending activity is occurring or where the defendant resides. Full authority is also given the board or commission, as appropriate, to enforce by injunction, mandatory injunction or other appropriate remedy, in courts having jurisdiction in the county where the offending activity is occurring, any and all reasonable rules and regulations promulgated by it which do not conflict with any law, and all of the terms, conditions and provisions of permits issued by the board or commission pursuant to the provisions of this Act. At the request of the board or the commission, the attorney general shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both the injunctive relief and civil penalty, authorized in this section. Any party to a suit may appeal from a final judgment as in other civil cases. The obtaining of a permit under the provisions of this Act by a person shall not act to relieve that person from liability under any statutory law or the Common Law.

Sec. 2. The fact that the Texas Water Well Drillers Board needs a civil penalty provision in its law and that there is a need for an ~~enforcement~~ enforcement program as to this agency create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the Rule is hereby suspended.

MAY 19 1971

DATE

READ AND ADOPTED

*Deputy Hallman*  
CHIEF CLERK  
HOUSE OF REPRESENTATIVES

*J. D. Parve*

②  
COMMITTEE AMENDMENT NO. 2

Amend S.B. 700 by striking all above the enacting clause and substituting lieu thereof the following:

A BILL  
TO BE ENTITLED

*caption change*  
AN ACT amending Section 13 of Chapter 264, Acts of the 59th Legislature, Regular Session, 1965, as last amended by Chapter 376, Acts of the 61st Legislature, Regular Session, 1969, (Codified as Art. 7621e of Vernon's Texas Civil Statutes); changing the penalties for violation of Article 7621e, Vernon's Civil Statutes, from misdemeanors to civil penalties of not to exceed \$1,000 per day for each and every day and each and every act; providing for injunctions; and declaring an emergency.

MAY 18 1971

MAY 18 1971

DATE ~~\_\_\_\_\_~~  
READ AND  
READ AND ADOPTED  
*Deschamps*  
CHIEF CLERK  
HOUSE OF REPRESENTATIVES

*J. Morre*

AN ACT

amending Section 13 of Chapter 264, Acts of the 59th Legislature, Regular Session, 1965, as last amended by Chapter 376, Acts of the 61st Legislature, Regular Session, 1969 (codified as Article 7621e, Vernon's Texas Civil Statutes); changing the penalties for violation of the Water Well Drillers Act, Article 7621e, Vernon's Texas Civil Statutes, from misdemeanors to civil penalties of not to exceed \$1,000 per day for each and every day and each and every act; providing for injunctions; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

Section 1. That Section 13 of Chapter 264, Acts of the 59th Legislature, Regular Session, 1965, as last amended by Chapter 376, Acts of the 61st Legislature, Regular Session, 1969 (codified as Article 7621e, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 13. Any person who fails to comply with the provisions of this Act, or with any rule or regulation promulgated by the board or the commission under this Act, or with any term, condition or provision in his permit issued pursuant to this Act, shall be subject to a civil penalty in any sum not exceeding One Thousand Dollars (\$1,000) for each day of noncompliance and for each act of noncompliance, as the court may deem proper. The action may be brought by the board or the commission, as appropriate, in any court of competent jurisdiction in the county where the offending activity is occurring or where the defendant resides. Full authority is also given the board or commission, as

appropriate, to enforce by injunction, mandatory injunction or other appropriate remedy, in courts having jurisdiction in the county where the offending activity is occurring, any and all reasonable rules and regulations promulgated by it which do not conflict with any law, and all of the terms, conditions and provisions of permits issued by the board or commission pursuant to the provisions of this Act. At the request of the board or the commission, the Attorney General shall institute and conduct a suit in the name of the State of Texas for injunctive relief or to recover the civil penalty, or for both the injunctive relief and civil penalty, authorized in this section. Any party to a suit may appeal from a final judgment as in other civil cases. The obtaining of a permit under the provisions of this Act by a person shall not act to relieve that person from liability under any statutory law or the Common Law."

Sec. 2. The facts that the Texas Water Well Drillers Board needs a civil penalty provision in its law and that there is a need for an enforcement program as to this agency create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the Rule is hereby suspended.

\_\_\_\_\_  
Lieutenant Governor

\_\_\_\_\_  
Speaker of the House

I hereby certify that S. B. No. 700 passed the Senate on April 22, 1971, by the following vote: Yeas 31, Nays 0; May 21, 1971, Senate concurred in House amendments by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S. B. No. 700 passed the House on May 19, 1971, with amendments, by the following vote: Yeas 143, Nays 0, and two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

5-26-71  
Date

Signed - 90 day bill  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
4:15 PM O'CLOCK

MAY 26 1971

\_\_\_\_\_  
Secretary of State

*Shuman*

MAY 25 1971

AN ACT amending Section 13, Chapter 264, Acts of 59th Legis., R.S., 1965, as amended; changing the penalties for violation of Water Well Drillers Act; providing for suits by the Board and "local governments"....; and declaring an emergency.

APR 22 1971 APR 22 1971

Received from  
the Senate

Dorothy Hallman

Chief Clerk, House of Representatives

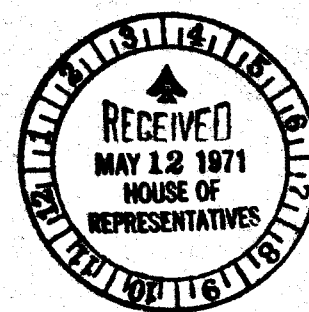
APR 26 1971 APR 26 1971

READ 1st TIME  
AND REFERRED TO COMMITTEE ON

Dorothy Hallman

Chief Clerk, House of Representatives

MAY 12 1971 REPORTED FAVORABLY SENT TO PRINTER AS AMENDED



inside

3-21-71 Filed with the Secretary of the Senate  
MAR 15 1971 Read, referred to Committee on Water and Conservation  
MAR 29 1971 Reported favorably.  
Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.  
Ordered not printed.  
Senate and Constitutional Rules to permit consideration suspended by  
unanimous consent.  
years, nays.  
To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of years, nays.  
APR 22 1971 Read second time and { ordered engrossed.  
passed to third reading.  
Caption ordered amended to conform to body of bill.  
APR 22 1971 Senate and Constitutional 3-Day Rules suspended by vote of  
31 years, 0 nays to place bill on third reading and final passage.  
APR 22 1971 Read third time and passed by { a viva voce vote.  
31 years, 0 nays.

OTHER ACTION:

Charles Schnabel  
Secretary of the Senate4-22-71 Engrossed  
APR 22 1971 Sent to HOUSE

ENGROSSING CLERK

PRINTED, DISTRIBUTED AND  
REFERRED TO COMMITTEE ON MAY 12 1971  
RULES 4:00 P.M.  
(Time) (Date)

MAY 19 1971 *SB 700*

Motion to suspend all necessary rules to consider prevailed by non-record vote.

*Dorothy Hallman*  
Chief Clerk, House of Representatives

RETURNED MAY 20 1971 *with amendments*  
FROM HOUSE

MAY 21 1971  
Senate concurred in House amendments by the following vote: *31*  
yeas, *0* nays.

MAY 19 1971 Read Second Time, *Amended*  
and passed to third reading by *non-* record vote  
of \_\_\_\_\_ yeas, \_\_\_\_\_ noes.

*Dorothy Hallman*  
Chief Clerk, House of Representatives

MAY 19 1971 Read third time  
and Passed  
by following vote: yeas *143*  
Nays *0, 2 present*  
*Dorothy Hallman*  
Chief Clerk  
HOUSE OF REPRESENTATIVES

MAY 19 1971

MAY 19 1971

MOTION TO RECONSIDER THE VOTE BY WHICH *SB No. 700* WAS ADOPTED / PASSED AND TO TABLE THE MOTION TO RECONSIDER PREVAILED PASSED BY A *non-record* VOTE OF \_\_\_\_\_ YEAS AND \_\_\_\_\_ NAYS  
*Dorothy Hallman*  
CHIEF CLERK HOUSE OF REPRESENTATIVES

Unanimous consent granted to amend caption of *House* Bill No. *700* to conform to body of bill.

MAY 19 1971 RETURNED TO SENATE